

When she started, the infant mortality rate in some poor Chicago neighborhoods was lower than in many developing nations. Sister Sheila recruited two women in the Robert Taylor Homes, a large public housing complex, asked them to find pregnant residents and escort them to one of the department's eight free-standing clinics for prenatal care. During her tenure, she reduced the city's infant mortality rate by 39 percent.

She sent a van to circulate through Chicago's poorer neighborhoods, providing immunizations for children and dramatically increasing the percentage of kids who are up to date on their shots. She created a citywide plan—hailed by the Centers for Disease Control—as a model to combat what she called the insidious public health epidemic of domestic violence. She created special programs to reach minority and immigrant families and established an Office of Lesbian and Gay Health, only the second such office in the Nation.

Sister Lyne received many honors, including the Excellence in Public Award from the blue-ribbon panel of Chicago's business and industry leaders.

Dr. Joanne Smith, president and CEO of the Rehabilitation Institute of Chicago, recently praised Sister Sheila and said she was one of those leaders who, when she gets behind something, is a train that is difficult to stop.

Three years ago Sister Lyne helped prod the Illinois General Assembly to pass a groundbreaking new law capping how much hospitals could charge uninsured patients, so that instead of being the only people who are billed the full sticker price, their bills are closer to what other patients pay.

She comes to the office 7 days a week—usually by 7 a.m.—half walks and half jogs 3 miles a day. Some days she trades the walk for the elliptical and Stairmaster. She is 76½ years old. She speaks of Mercy Hospital as a mission and believes that health care is a public good. She is, in her own words, “so grateful and so privileged that I have been able to be a part of making things better.”

However, she is troubled and frustrated by all the unmet needs. When asked what changes she has seen in health care in the last half century, she replies very simply: Not enough. She asks pointedly: Who doesn't deserve health care?

In closing, I want to read a short excerpt from the Chicago Sun-Times editorial. Here is what they said:

Some people fight for the poor and dispossessed by marching on the castle, torches high. Others, fighting the same fight, cross the drawbridge and work from the inside, maneuvering the levers of power, mastering the arts of management and poll politics.

Sister Sheila Lyne . . . is the second kind of activist, remarkably so, having done much to make Chicago a more caring city for half a century.

The editorial went on to say:

Sister Sheila . . . says it's time she calls it quits, but we suspect we'll see her again. She

is of a generation of Catholic sisters, and of a particularly steely order—the Sisters of Mercy—who tend to work until they can't work anymore. They are smart, educated women who run things. They are tough and ramrod straight. And we would rather they never retire. Certainly not this one.

Well, anyone anywhere who questions the catholicity or the Christianity of American Catholic nuns needs to meet Sister Sheila, a woman who has given her life to the least of our brethren.

Loretta and I and countless Chicagoans of three generations feel exactly the same way. Sister Sheila Lyne's passionate devotion to health care and justice has made Chicago a healthier and better city, and we are all in her debt.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. COONS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### STUDENT DEBT

Mr. DURBIN. Mr. President, every week I hear from students across my State and around the Nation who are struggling with student loans. Congress has acted on important legislation to help students with these loans by keeping the interest rate of Federal subsidized student loans at a low 3.4 percent, but we need to do more for borrowers and their families because the private student loans have become burdensome and unmanageable.

While other types of consumer loan debt are decreasing, there is one category that is increasing, student loan debt. Student loan debt is more burdensome than other debts. Lenders often will not work with borrowers; take it or leave it. As we all know, student loans—because of the action of Congress—are not dischargeable in bankruptcy. Only in extremely rare circumstances when the debtor can establish undue hardship is a student loan dischargeable from a bankruptcy.

Undue hardship is a court-defined term, and most courts use a three-part analysis called the Brunner test that was created by the Second Circuit in 1987 to determine whether a student loan can be discharged in bankruptcy. The Brunner test requires that to establish “undue hardship” and receive a discharge of a student debt, a debtor must show “that the debtor cannot maintain a minimal standard of living if forced to repay the loan.” Second, that this state of affairs is likely to persist for a significant portion of the loan repayment period; and, third, that the debtor made good-faith efforts to repay the loan.

This test—and especially the second part—is almost impossible to satisfy.

Back in March I chaired a hearing in the Judiciary Committee on student loans and bankruptcy. One of the witnesses was Deanne Loonin of the National Consumer Law Center. Ms. Loonin testified that the “undue hardship system is random, unfair and costly” and that “effectively it has become no choice at all for those who most need it.”

Ms. Loonin noted that the second prong of the Brunner test “forces borrowers to prove a negative—they must somehow prove that their future is as hopeless as their present.”

In 2004 the Tenth Circuit Court of Appeals noted that courts have applied the Brunner test to deny discharge under even the most dire circumstances. That is because in many jurisdictions courts have construed that second prong of the Brunner test to require borrowers to show “certainty of hopelessness.”

On August 31, the New York Times ran an article about the Brunner test and this “certainty of hopelessness” standard. It was entitled “Last Plea on Student Loans: Proving a Hopeless Future.” The article said:

Lawyers sometimes joke about the impossibility of getting over this high bar, even as they stand in front of judges. “What I say to the judge is that as long as we've got a lottery, there is no certainty of hopelessness,” said William Brewer Jr., a bankruptcy attorney in Raleigh, N.C. “They smile, and then they rule against you.”

The New York Times discussed a 2008 undue hardship case in my State of Illinois—in deep southern Illinois. The debtor, David Whitener, was visually disabled, unemployed, and living on about \$900 a month of Social Security disability payments. The bankruptcy court rejected the undue hardship request finding that he had not proved “certainty of hopelessness.” Whitener's lawyer, Steve Stanton of Granite City, said of the case:

I didn't even have the client pay me. In all of the cases in 30 years of bankruptcy work, I came away with about the worst taste in my mouth that I've ever had.

Not only is it almost impossible to prove the hardship required by the Brunner test, most student borrowers are not even able to afford to try. That is because debtors have to bring a separate court case in addition to the bankruptcy case in order to seek this exception. That means paying a lawyer for another case and likely for an appeal.

How can it be that the deck is so stacked against students who borrowed to go through school? How can “certainty of hopelessness” be the standard for borrowers to obtain any relief in bankruptcy court. This harkens back to the debtors prisons of Europe and England. Charles Dickens would have a ball with this standard.

Congress needs to address this issue. Right now there is \$150 billion in outstanding private student loan debt that is crushing many borrowers—\$150 billion. I have a bill, the Fairness for

Struggling Students Act, that would once again permit private student loans to be discharged in bankruptcy as they were before 2005. Mark my words, there is no good reason why private student loans should be treated differently in bankruptcy from any other type of private unsecured debt.

This 2005 change in the law was a special interest favor. It was never justified, never debated, and cannot even be explained today. Filing for bankruptcy is never a walk in the park, and it should be the last resort for anyone, including student borrowers. But many private student loans have outrageous terms forced on kids—or just barely beyond being kids—and their families. Students are saddled with those loans. Many of them would not even understand the standard of “certainty of hopelessness” that is required before there is any relief in bankruptcy court. The problem is not going away; it is getting worse. The student debt, when they start to default, just grows in size.

One of my recent e-mails came from a victim of one of these for-profit schools. The initial debt this student had after the student dropped out of the for-profit school was about \$80,000 in private loans. Because the student could not get a job, the debt just grew. It is now \$103,000. The student lives in the basement of the family home and has no hope. She cannot borrow any money for a car to go back to school or for any purpose. She is stuck, and it is not dischargeable in bankruptcy.

Bankruptcy reform would help borrowers like Malissa Peloquin. She left Westwood College—one of the most notorious for-profit schools—in 2007 with \$75,000 in student loan debt. It is a debt that Westwood College advisers and counselors had lured her into. Her Federal loans have an interest rate below 4 percent, but her private student loans are at more than 11 percent.

Malissa has never defaulted on her loans, but with three kids, she struggles to make the payments every month. She fears that she will lose her home because the home payments are difficult to keep up because of the student loan debt.

Her mother, who is 65 years old, co-signed two of her daughter's student loans just to help her.

Malissa worries what will happen when she cannot pay. Will they go after her mother? We know they do. In the past there have been reports about garnishing Social Security checks on the parents and grandparents who co-signed student loans when the student defaulted.

Malissa has considered filing for bankruptcy, but she knows that private student loans are not dischargeable as set by this outrageous standard. She said if she could go back in time, there is no way she would have ever taken out those loans.

How many young people 18, 19, 20 years old sit across the desk from an admissions officer who pushes the papers in front of them and says: If you

sign these papers, you will be in class next week. How many think: I have been told, as long as I can remember, go to school, get a degree? They anxiously sign them never thinking that they are building up a debt in many cases that will dog them for life.

We need to help borrowers such as Malissa who are struggling. I hope my colleagues will take a serious look at this. This is totally unfair. The for-profit college industry is disgraceful. Remember three numbers: 12 percent of all the students after high school go to for-profit schools; 25 percent of all Federal aid to education goes to for-profit schools; and 47 percent of all student loan defaults are of the students at for-profit schools. It tells us the story.

They drag these kids deep in debt, hand them worthless diplomas, watch them default, and then lives ruined by what students thought was the right decision early in life. Who is responsible for it? The Congress? The President? The government? Check all of the above. We have created this circumstance that costs \$32 billion a year, money that we send to these for-profit colleges. If they were a separate Federal agency, for-profit colleges would be the ninth largest Federal agency in Washington, DC. They receive subsidies from 85 to 95 percent of all of their expenses directly from the Federal Government. Calling their employees Federal employees is not a stretch. They are all paid for by the Federal Government as are their advertising and marketing expenses.

When we put this all together, it is rotten. The students who are contacting my office, and many other Senators, are crying out for help and relief. If we cannot help these young people after the exploitation of the for-profit schools and others, shame on us.

I yield the floor and suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### FAREWELL TO THE SENATE

Mr. BINGAMAN. Mr. President, in 1981, in his first inaugural address, President Reagan said:

Government is not the solution to our problem; government is the problem.

I came to the Senate 2 years later in 1983 with the firm belief that in most cases his statement was wrong. I believed then and I believe now that the Federal Government can be a constructive force for good, in protecting and maintaining the civil liberties of all Americans, in maintaining and strengthening our economy, protecting our environment, and in helping Americans live productive and fulfilling lives.

As I look back over the last 30 years, many of the arguments that have consumed our time at the Senate, whether on questions of spending or taxes or regulation or fiscal policy, those questions have divided between those who saw government as the problem and those who believed it could and should be a constructive force for helping the American people deal with problems. I consider myself firmly in the second camp. In each of the major areas of national concern, I would like to be able to report progress for the country since I arrived in the Senate. Unfortunately, the record of progress is not so clear. In many areas, we have made progress, but there are also instances where we have lost more ground than we have gained. As issues continue to be reconsidered, I am reminded of the well-known statement that “success is never permanent in Washington.”

With regard to our Nation's security from foreign aggression, the end of the Cold War and the collapse of the Soviet Union were clearly the most positive developments we have seen in the last 30 years. If the end of the Cold War was the most positive national security development I witnessed since coming to the Senate, the invasion of Iraq to bring about regime change in that country was the biggest national security blunder. That blunder cost our Nation dearly in service men and women killed and injured and in resources that should have been used to strengthen our economy here at home. Last month, I was stopped by a woman from northern New Mexico who thanked me for my service in the Senate and particularly for my vote against granting President Bush the authority to take our country into that war.

The Nation's fiscal policy is very much the focus of the Senate's attention during these final weeks of the 112th Congress. On this issue, again, we have made one step forward during the time I have been in the Senate, but, unfortunately, we have taken two steps back. I arrived in the Senate in January of 1983, a period of large deficits compared to anything the country had experienced for several decades. Those large deficits grew and persisted through the Reagan Presidency.

In 1990, a democratically controlled Congress and President George H.W. Bush made a significant step forward, reining in those deficits with the enactment of the Omnibus Budget Reconciliation Act of that year, 1990. That law created the statutory pay-go requirement. It also increased marginal rates for the wealthiest Americans, and I was proud to support the measure. In 1993, another major step was taken when, at the urging of President Clinton, Congress enacted the Omnibus Budget Reconciliation Act of that year, 1993. Again, that measure both raised taxes and constrained spending. It was denounced by many in the Senate as sure to throw the economy into recession. In fact, the opposite occurred, and the economy prospered. As